



## Council Communication

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** SUSAN D. GOODWIN, CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB, PLC, SPECIAL COUNSEL

**THROUGH:** PATRICK BANGER, TOWN MANAGER

**MEETING DATE:** AUGUST 1, 2013

**SUBJECT:** INTERGOVERNMENTAL AGREEMENT WITH THE HIGLEY UNIFIED SCHOOL DISTRICT FOR ACQUISITION OF RIGHT-OF-WAY AND CONSTRUCTION OF IMPROVEMENTS

<b>STRATEGIC INITIATIVE:</b>	N/A
<b>LEGAL REVIEW</b>	<b>FINANCIAL REVIEW</b>
<input checked="" type="checkbox"/> Complete	<input checked="" type="checkbox"/> Complete
<input type="checkbox"/> N/A	<input type="checkbox"/> N/A

### RECOMMENDED MOTION

**MOTION TO APPROVE THE INTERGOVERNMENTAL AGREEMENT NO. 2014-1002-0058 WITH THE HIGLEY UNIFIED SCHOOL DISTRICT.**

### BACKGROUND/DISCUSSION

The Higley Unified School District has plans to construct improvements to Elona Middle School (Cooley Middle School) and must improve East Elona Road and Henry Lane. HUSD has requested Gilbert to enter into an intergovernmental agreement whereby Gilbert would condemn right-of-way needed by HUSD for the needed street improvements. The proposed intergovernmental agreement provides for the following

- Gilbert agrees to exercise its power of eminent domain to acquire the right-of-way adjacent to the school contingent on HUSD paying the cost of the property and all acquisition costs.



- HUSD deposits the amount of \$20,000 for estimated costs (including attorneys fees) and pays any overage if costs are in excess of \$20,000.
- HUSD provides the appraisal of the property to Gilbert.
- Gilbert issues a temporary license to HUSD to construct improvements pending the conclusion of the eminent domain proceedings.
- Gilbert approves all plans and specifications for the improvements to be constructed by HUSD.
- The improvements are to be completed by HUSD by December 31, 2013. Upon completion of the improvements, Gilbert accepts as part of its streets system per standard procedure.

The Agreement was reviewed for form by Susan D. Goodwin, Curtis, Goodwin, Sullivan, Udall, and Schwab, special counsel.

#### **FINANCIAL IMPACT**

HUSD pays all costs incurred by Gilbert.

The financial impact was reviewed by Dawn Irvine, Budget Administrator.

#### **STAFF RECOMMENDATION**

Approve the Intergovernmental Agreement with Higley Unified School District.

Respectfully submitted,

Susan D. Goodwin  
Curtis, Goodwin, Sullivan, Udall, and Schwab, PLC  
Special Counsel

Attachments and Enclosures: Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE TOWN OF GILBERT AND  
THE HIGLEY UNIFIED SCHOOL DISTRICT**

This Intergovernmental Agreement ("Agreement") dated this \_\_\_\_ day of \_\_\_\_\_, 2013 is entered into between the Town of Gilbert, a municipal corporation ("Gilbert"), and the Higley Unified School District, a political subdivision of the State of Arizona ("HUSD"). Gilbert and HUSD are collectively referred to as the Parties or individually as a Party.

This Agreement shall become effective as of the date it is approved by each Party's governing body.

**RECITALS**

- A. HUSD intends to construct or cause to be constructed improvements to Elona Middle School (aka Cooley Middle School) ("School").
- B. To facilitate access to the School and improve safety for drivers and students on East Elona Road and Henry Lane, it is necessary to widen both East Elona Road and Henry Lane adjacent to the School and to construct other off-site improvements.
- C. Gilbert acknowledges the need to widen and improve East Elona Road and Henry Lane to provide for safe access from these public streets onto the School property.
- D. Gilbert is willing to exercise its power of eminent domain to acquire real property to widen and improve East Elona Road and Henry Lane on the terms and conditions set forth in this Agreement.

**STATUTORY AUTHORITY**

- 1. A.R.S. §§ 11-951, *et seq.*, authorizes public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
- 2. Gilbert is empowered by A.R.S. §12-1111, *et seq.*, to exercise the power of eminent domain to acquire real property for roadway purposes and by A.R.S. §§ 9-240 and 9-276 to improve and maintain roadways within its jurisdiction.
- 3. HUSD is empowered by A.R.S. §§ 15-341 and 15-342 to improve and maintain grounds and take steps to protect student safety.

**PURPOSE OF THE AGREEMENT**

- 4. The purpose of this Agreement is to identify and define the Parties' responsibilities for acquisition of the right-of-way necessary to construct the off-site improvements described in this Agreement and the acceptance of the improvements by Gilbert.

## **TERMS OF THE AGREEMENT**

### **5. Responsibilities of Gilbert**

- 5.1 Contingent on HUSD compliance with Paragraph 6.1, Gilbert shall exercise its power of eminent domain to acquire the real property described in Exhibits A-1 and A-2 ("Right-of-Way Parcel") for roadway purposes, pursuant to the requirements of A.R.S. §12-1111, *et seq.*, including seeking an Order of Immediate Possession from the court.
- 5.2 Following the issuance of an Order of Immediate Possession, Gilbert shall offer to purchase the Right-of-Way Parcel, and, if such offer is not accepted within twenty (20) days, Gilbert shall commence eminent domain proceedings to acquire the Right-of-Way Parcel. Gilbert shall grant a temporary license to HUSD and its HUSD/Contractor, JMF-Higley 2012, LLC, to construct the roadway improvements and other off-site improvements ("Improvements") in order that HUSD may construct or cause to be constructed the Improvements in compliance with all requirements of Gilbert. Such temporary license shall remain in effect until the construction of the Improvements is complete and accepted by Gilbert, or December 31, 2013, whichever occurs first.
- 5.3 All plans and specifications for the Improvements shall be submitted to Gilbert for approval. Gilbert shall issue permits, as needed, for the construction of the Improvements in accordance with its standard procedures.
- 5.4 Upon completion of the construction of the Improvements by HUSD and final acceptance by Gilbert, which acceptance shall not be unreasonably withheld, Gilbert shall assume liability and responsibility for the operation and maintenance of the Improvements.
- 5.5 Upon receipt of a Final Order of Condemnation, Gilbert shall invoice HUSD for the total costs of the acquisition of the Right-of-Way Parcel in excess of the amount deposited by HUSD pursuant to Paragraph 6.1, including all legal fees and costs. If the actual costs incurred by Gilbert are less than the amount deposited by HUSD, Gilbert shall refund the overage.

### **6. Responsibilities of HUSD**

- 6.1 HUSD shall provide to Gilbert an appraisal required by A.R.S. §12-1116(A)(2). Prior to Gilbert commencing an action to acquire the Right-of-Way Parcel, HUSD shall deposit with Gilbert an amount equal to the appraised value of the Right-of-Way Parcel plus \$20,000 for estimated attorneys fees and costs associated with the acquisition of the Right-of-Way Parcel by Gilbert.

- 6.2 Upon receipt of a temporary license from Gilbert, HUSD shall construct or cause to be constructed the Improvements consistent with Gilbert standards for such Improvements.
- 6.3 HUSD shall provide all design plans and submittals to Gilbert for review and approval prior to commencing construction of the Improvements.
- 6.3 Within ten (10) business days of receipt of an invoice pursuant to Paragraph 5.5, HUSD shall pay the amount of such invoice.
- 6.4 HUSD will complete the construction of the Improvements on or before December 31, 2013.
- 6.5 At all times prior to acceptance of the Improvements by Gilbert, HUSD and its construction contractor ("HUSD/Contractor") shall maintain insurance for the coverages and in the amounts set forth on Exhibit B. HUSD and HUSD/Contractor shall provide to Gilbert acceptable Certificates of Insurance evidencing compliance with the requirements of Exhibit B.
- 6.6 To the fullest extent permitted by law, HUSD, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless Gilbert, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions of HUSD, its agents, employees or any HUSD/Contractor related to the performance of this Agreement. HUSD's duty to defend, hold harmless and indemnify Gilbert, its agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by HUSD's or HUSD/Contractor's acts, errors, mistakes, omissions in the performance of this Agreement, including any employee of the HUSD, any HUSD/Contractor or subHUSD/Contractor or any other person for whose acts, errors, mistakes, omissions HUSD may be legally liable, including Gilbert. Such indemnity does not extend to Gilbert's negligence.

Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

## **7. GENERAL TERMS AND CONDITION**

- 7.1 This Agreement shall become effective as of the date it is approved by all Parties and shall remain in full force and effect until obligations of both parties have been completed in accordance with this Agreement.
- 7.2 This Agreement shall be subject to the provisions of A.R.S. § 38-511.
- 7.3 As required by A.R.S. § 41-4401, the Parties hereby warrant their compliance with all federal immigration laws and regulations that relate to their respective employees and A.R.S. § 23-214(A). The Parties further warrant that after hiring an employee, such Party verifies the employment eligibility of the employee through the E-Verify program. If such Party uses any contractor or subcontractors in performance of the Agreement, the contractors or subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and contractors and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of the Agreement.
- 7.4 The Parties warrant that they do not have scrutinized business operations in Sudan or Iran, as prohibited by A.R.S. §§ 35-391.06 and 35-393.06, and further acknowledge that any contractor or subcontractor who is contracted by a Party to perform this Agreement shall warrant that they do not have scrutinized business operations in Sudan or Iran.
- 7.5 This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
- 7.6 This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement.
- 7.7 This Agreement shall not be modified or extended except by written instrument adopted under the requirements for adopting a new agreement.
- 7.8 This Agreement does not grant to HUSD authority to control the subject roadway, except to the extent necessary to perform the tasks expressly undertaken pursuant to this Agreement.
- 7.9 This Agreement has been arrived at by negotiation and shall not be construed against any Party or against the Party who prepared the last draft.

Dated the date and year first above written.

TOWN OF GILBERT

\_\_\_\_\_  
Mayor Date

Attest by:

\_\_\_\_\_  
Town Clerk Date

HIGLEY UNIFIED SCHOOL DISTRICT

Approved and Accepted by:

\_\_\_\_\_  
Superintendent Date

Attest by:

\_\_\_\_\_  
Secretary of School Board Date

### **Approval of Attorney for Town of Gilbert**

I hereby state that I have reviewed the proposed Intergovernmental Agreement between the Town of Gilbert and the Higley Unified School District, and declare the agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

\_\_\_\_\_  
Gilbert Attorney

\_\_\_\_\_  
Date

### **Approval of Attorney for Higley Unified School District**

I hereby state that I have reviewed the proposed Intergovernmental Agreement between the Town of Gilbert and the Higley Unified School District, and declare the agreement to be in proper form and within the powers and authority granted to their respective governing bodies under the laws of the State of Arizona.

\_\_\_\_\_  
Higley Unified School District Attorney

\_\_\_\_\_  
Date



## EXHIBIT A

### LEGAL DESCRIPTION OF RIGHT-OF-WAY PARCEL

# LEGEND:

- FOUND BRASS CAP IN HANDHOLE
- FOUND BRASS CAP FLUSH
- SET 1/2" X 18" REBAR WITH PLASTIC CAP STAMPED RLS 22265 ATTACHED THERETO
- FOUND OTHER MONUMENTS
- ▲ CALCULATED POINT
- M.C.R. MARICOPA COUNTY RECORDS
- M.C.A. MARICOPA COUNTY ASSESSOR
- P/P PARCEL NUMBER
- P/W RIGHT-OF-WAY
- P.U.E. PUBLIC UTILITY EASEMENT
- P.A.E. PEDESTRIAN ACCESS EASEMENT
- G.S.R.M. GILA AND SALT RIVER MERIDIAN

## DEDICATION

STATE OF ARIZONA  
COUNTY OF MARICOPA

KNOW ALL MEN BY THESE PRESENTS:

THAT HOLEY UNITED SCHOOL, DISTRICT NO. 60, AS OWNER OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, OF TOWN OF GILBERT, MARICOPA COUNTY, ARIZONA, HEREBY PUBLISHES THIS MAP OF DEDICATION AS AND FOR THE MAP OF DEDICATION FOR NEW MIDDLE SCHOOL AT ELONA RANCH, AND HEREBY DECLARES THAT SAID MAP OF DEDICATION SETS FORTH THE LOCATION AND GIVES THE DIMENSION OF THE STREETS AND EASEMENTS CONSTITUTING SAME, AND THAT THE STREETS ARE KNOWN BY THE NAME OF EAST ELONA DRIVE AND SOUTH HENRY LANE. THE STREETS AND EASEMENTS SHOWN HEREON ARE DEDICATED TO THE TOWN OF GILBERT, EASEMENTS SHOWN ON SAID MAP ARE DEDICATED FOR THE PURPOSE SHOWN HEREON.

PUBLIC UTILITY EASEMENTS ARE DEDICATED FOR THE BENEFIT OF PUBLIC UTILITIES AND ARE LOCATED WHERE SHOWN IN, OVER, AND UNDER THE AREAS DEDICATED AS SUCH HEREON. FOR THE INSTALLATION, MAINTENANCE, REPAIR, AND REMOVAL OF NECESSARY UTILITIES, PUBLIC UTILITIES LOCATING UTILITY FACILITIES IN THIS PUBLIC UTILITY EASEMENT SHALL COMPLY WITH THE CODES AND REGULATIONS OF THE TOWN OF GILBERT, ARIZONA. SUCH PUBLIC UTILITIES SHALL BE AND REMAIN RESPONSIBLE FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE AND REPAIR OF THEIR UTILITY FACILITIES.

OWNER WARRANTS AND REPRESENTS TO THE TOWN OF GILBERT TO BE THE SOLE OWNER OF THE PROPERTY COVERED HEREBY AND THAT EVERY LEASE, EASEMENT HOLDER, OR OTHER PERSON, OR ENTITY, HAVING ANY INTEREST IN THE LAND, ADVISES TO OR INCONSISTENT WITH THE DEDICATIONS, CONVEYANCES, OR OTHER REAL PROPERTY INTEREST CREATED OR TRANSPORTED BY THIS PLAT HAS CONSENTED TO, OR JOINED IN THIS PLAT, AS ENJOINED BY INSTRUMENTS WHICH ARE RECORDED WITH THE MARICOPA COUNTY RECORDS' OFFICE, OR WHICH OWNER WILL RECORD NOT LATER THAN THE DATE ON WHICH THIS PLAT IS RECORDED.

BY: HOLEY UNITED SCHOOL, DISTRICT NO. 60

DATE

NAME

DATE

DATE

## NOTARY

### ACKNOWLEDGMENT

STATE OF ARIZONA

COUNTY OF MARICOPA

THIS DOCUMENT WAS ACKNOWLEDGED BEFORE ME THIS DAY OF

ON BEHALF OF 2013, BY FOR AND

NOTARY PUBLIC:

MY COMMISSION EXPIRES:

## FLOODPLAN MAP INFORMATION

COUNTY NUMBER	PARCEL NUMBER AND DATE	SUFFIX	DATE OF FIRM (CHECK DATE)	SHADED ZONE
040044	0401302600 9-30-08	H	9-30-08	K

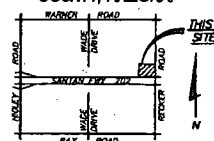
ZONE "K": AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREA LESS THAN 1 SQUARE MILE; AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.

# MAP OF DEDICATION

FOR

## NEW MIDDLE SCHOOL AT ELONA RANCH

A PORTION OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.



VICINITY MAP  
NOT TO SCALE

## LEGAL DESCRIPTION

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER (5/8 INCH REBAR) OF SAID SECTION 23 FROM WHICH POINT THE EAST QUARTER CORNER (1/2 INCH REBAR) BEARS SOUTH 00°35'13" EAST (BASE OF BEARINGS), A DISTANCE OF 2828.15 FEET;  
THENCE SOUTH 00°35'13" EAST, ALONG THE EAST LINE OF SAID SECTION 23, A DISTANCE OF 1878.10 FEET;  
THENCE DEPARTING SAID EAST LINE SOUTH 89°34'32" WEST, A DISTANCE OF 66.46 FEET TO A POINT ON A NON-TANGENT CIRCULAR CURVE CONCAVE SOUTHWEST FROM WHICH THE CURVE BEARS SOUTH 83°34'47" WEST, A DISTANCE OF 15.00 FEET, SAID POINT ALSO BEING THE POINT OF BEGINNING;  
THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°31'00", A DISTANCE OF 0.85 FEET;  
THENCE ALONG A LINE PARALLEL WITH AND 53.00 FEET WEST OF THE EAST LINE OF SAID NORTHEAST QUARTER, SOUTH 00°35'13" EAST, A DISTANCE OF 360.61 FEET;  
THENCE LEAVING SAID PARALLEL LINE, SOUTH 89°24'47" WEST, A DISTANCE OF 320.00 FEET;  
THENCE SOUTH 00°35'13" EAST, A DISTANCE OF 2828.15 FEET, TO A POINT ON THE NORTH LINE PER THE ORDER OF CONDEMNATION RECORDED IN 2002-398178 RECORDS OF MARICOPA COUNTY, ARIZONA;  
THENCE SOUTH 88°04'47" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 57.30 FEET;  
THENCE SOUTH 88°04'47" WEST, A DISTANCE OF 332.01 FEET;  
THENCE SOUTH 88°04'47" WEST, A DISTANCE OF 66.30 FEET, TO A POINT THAT IS 880.00 FEET (MEASURED AT RIGHT ANGLES) WEST OF THE EAST LINE OF SAID SECTION 23;  
THENCE CONTINUING SOUTH 88°04'47" WEST ALONG SAID NORTH LINE PER ORDER OF CONDEMNATION RECORDED AS 2002-850463 OF OFFICIAL RECORDS AND RECORDED AS 2002-358854 OF OFFICIAL RECORDS, A DISTANCE OF 361.83 FEET;  
THENCE DEPARTING SAID NORTH LINE, NORTH 00°25'28" WEST, A DISTANCE OF 427.86 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;  
THENCE NORTHEASTERLY ALONG SAID CURVE, HAVING A RADIUS OF 61.50 FEET, CONCAVE NORTHEASTERLY, WHERE RADIUS BEARS NORTH 31°37'56" WEST, THROUGH CENTRAL ANGLE OF 89°11'32", A DISTANCE OF 63.54 FEET TO THE CURVE'S END;  
THENCE NORTH 00°25'28" WEST, A DISTANCE OF 431.56 FEET TO THE BEGINNING OF A CURVE;  
THENCE NORTHEASTERLY, ALONG SAID CURVE, HAVING A RADIUS OF 14.30 FEET, CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 89°00'00", A DISTANCE OF 12.78 FEET TO THE CURVE'S END;  
THENCE 89°34'32" EAST, A DISTANCE OF 338.79 FEET TO THE BEGINNING OF A CURVE;  
THENCE SOUTHEASTERLY ALONG SAID CURVE, HAVING A RADIUS OF 699.50 FEET, CONCAVE SOUTHWESTERLY, THROUGH A CENTRAL ANGLE OF 12°41'02", A DISTANCE OF 154.85 FEET TO A POINT OF REVERSE CURVATURE;  
THENCE SOUTHEASTERLY, ALONG SAID CURVE, HAVING A RADIUS OF 695.50 FEET, CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 12°41'02", A DISTANCE OF 144.00 FEET TO THE CURVE'S END;  
THENCE NORTH 89°34'32" EAST, A DISTANCE OF 513.05, TO THE POINT OF BEGINNING.

CONTAINING 21.9307 NET ACRES, MORE OR LESS.

## BASES OF BEARINGS

THE BEARING OF NORTH 00°35'13" WEST AS SHOWN ON THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE 6 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA, AS SHOWN ON THE MAP OF DEDICATION OF COOLEY STATION NORTH, RECORDED IN BOOK 747 OF MAPS, PAGE 45, RECORDS OF MARICOPA COUNTY, ARIZONA.

## OWNER:

HOLEY UNITED SCHOOL, DISTRICT NO. 60  
2935 SOUTH REDDER ROAD  
GILBERT, ARIZONA 85201  
P.O. BOX 279-7016  
CONTACT: DR. DENISE EINHORN

## ENGINEER/SURVEYOR:

HESS - ROUNTREE, INC.  
2515 5TH STREET, SUITE C110  
PHOENIX, ARIZONA 85044  
P.O. BOX 488-0244  
FAX: (480) 488-0244  
CONTACT: DOUG OGDORF

## GENERAL NOTES

- CONSTRUCTION WITHIN EASEMENTS, EXCEPT BY PUBLIC AGENCIES AND UTILITY COMPANIES, SHALL BE LIMITED TO UTILITIES AND WOOD, WISE OR REMOVABLE SECTION TYPE FENCING, UNLESS APPROVED BY THE TOWN OF GILBERT.
- ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.
- ELECTRIC LINES TO BE CONSTRUCTED UNDERGROUND AS REQUIRED BY ARIZONA CORPORATION COMMISSION.
- ALL COMMUNICATION LINES TO BE CONSTRUCTED UNDERGROUND AS REQUIRED BY ARIZONA CORPORATION COMMISSION.
- THE TOWN OF GILBERT IS NOT RESPONSIBLE FOR AND WILL NOT ACCEPT MAINTENANCE OF ANY PRIVATE STREETS, PRIVATE UTILITIES, PRIVATE FACILITIES AND LANDSCAPED AREAS WITHIN THE PROJECT. THE OWNER'S ASSOCIATION WILL BE RESPONSIBLE FOR SAID MAINTENANCE.
- NO STRUCTURES SHALL BE CONSTRUCTED IN OR ACROSS NOR SHALL OTHER IMPROVEMENTS OR ALTERATIONS BE MADE TO THE DRAINAGE FACILITIES THAT ARE A PART OF THIS DEVELOPMENT WITHOUT WRITTEN AUTHORIZATION OF THE TOWN OF GILBERT.
- ALL RETENTION BASINS MUST DRAIN ANY STORM EVENT UP TO AND INCLUDING THE 50-YEAR STORM WITHIN 36 HOURS. OWNER(S) OF ANY EXISTING BASIN FAILING TO MEET THIS REQUIREMENT MUST TAKE CORRECTIVE ACTION TO BRING THE BASIN INTO COMPLIANCE.
- ALL DRYWELLS SHOWN ON THIS PROJECT SHALL BE MAINTAINED BY THE OWNER(S) AND ARE TO BE REPLACED BY THE OWNER(S) WHEN THEY CEASE TO DRAIN THE SURFACE WATER IN A 36 HOUR PERIOD. REGULAR MAINTENANCE OF THE DRYWELL SETTING CHAMBER IS REQUIRED TO ACHIEVE THE BEST OPERATION OF THE DRYWELL.
- THIS DEVELOPMENT IS LOCATED WITHIN THE TOWN OF GILBERT WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY IN ACCORDANCE WITH A.R.S. 45-576.
- ALL BUILDING SETBACKS SHALL COMPLY WITH ORDINANCE NO. \_\_\_\_\_ AND AMENDMENTS.

## SURVEYOR'S DECLARATIONS REGARDING THIS SURVEY:

- THIS SURVEY IS BASED ON A CONDITION OF TITLE REPORT, ISSUED BY CHICAGO TITLE INSURANCE COMPANY, TITLE NO. CTA1212700, DATED NOVEMBER 28, 2012 AT 7:30 A.M.
- NO ATTEMPT HAS BEEN MADE TO SHOW ON THIS SURVEY ANY FUTURE RIGHTS-OF-WAY, FUTURE EASEMENTS, OR FUTURE DEDICATIONS THAT ANY MUNICIPALITY OR GOVERNMENTAL AGENCY MAY REQUIRE, EXCEPT AS NOTED HEREON.
- A PERSONAL SEARCH OF THE RECORDS OF MARICOPA COUNTY IN THE RECORDERS' OFFICE OF SAID COUNTY HAS NOT BEEN MADE BY THIS SURVEYOR.

## PROJECT DATA:

TOTAL DEDICATED AREA = 0.31666 ACRES  
TOTAL SITE AREA: GROSS = 23.79653  
NET = 21.93092

## SURVEYOR'S NOTES:

- FOUND MONUMENTS ARE AS DESCRIBED HEREON.
- ALL MONUMENTS SET BY THIS SURVEYOR ARE IDENTIFIED AS BEING A 1/2 INCH X 18 INCH REBAR WITH BRASS TAG OR PLASTIC CAP STAMPED RLS 22265 ATTACHED THERETO, UNLESS OTHERWISE NOTED HEREON.
- (C) = CALCULATED.
- (M) = AS MEASURED BY THIS SURVEYOR.
- (N) = MEASUREMENTS PER REFERENCE DOCUMENTS RECORDED IN THE MARICOPA COUNTY, ARIZONA, RECORDERS' OFFICE (M.C.R.) OR OTHERWISE NOTED AS FOLLOWS:
  - "MAP OF DEDICATION COOLEY STATION NORTH" RECORDED IN BOOK 747 OF MAPS, PAGE 45, M.C.R.
  - "COOLEY STATION NORTH, PARCEL 3" A SUBDIVISION RECORDED IN BOOK 751 OF MAPS, PAGE 27, M.C.R.
  - "COOLEY STATION NORTH, PARCEL 1" A SUBDIVISION RECORDED IN BOOK 751 OF MAPS, PAGE 22, M.C.R.
  - "ALTA/ACSM LAND AND TITLE SURVEY" RECORDED IN BOOK 607 OF MAPS, PAGE 38, M.C.R.
  - "MARICOPA COUNTY GEODETIC DEDICATION AND CADASTRAL SURVEY" RECORDED IN BOOK 658 OF MAPS, PAGE 13, M.C.R.
  - "SPECIAL WARRANTY DEED" RECORDED IN DOCUMENT NO. 2008-0809749 M.C.R.
  - "FINAL ORDER OF CONDEMNATION" RECORDED IN DOCUMENT NO. 2002-0358179 M.C.R.
- ALL BEARINGS AND DISTANCES ON THIS SURVEY ARE MEASURED UNLESS OTHERWISE NOTED.

## APPROVALS:

APPROVED BY THE TOWN COUNCIL OF THE TOWN OF GILBERT, ARIZONA  
THIS DAY OF 2013.

BY: TOWN ENGINEER DATE

BY: PLANNING MANAGER DATE

## SURVEYOR'S CERTIFICATION:

THIS IS TO CERTIFY SURVEY AND THE SUBDIVISION PREMISES DESCRIBED AND PLATTED HEREIN WERE MADE UNDER MY DIRECTORSHIP DURING THE MONTH OF DECEMBER, 2012, THAT THE PLAT IS CORRECT AND ACCURATE, THAT THE MONUMENTS SHOWN HEREON HAVE BEEN LOCATED OR ESTABLISHED AS DESCRIBED, AND THAT LOT CORNERS HAVE BEEN PERMANENTLY SET, TO THE BEST OF MY KNOWLEDGE AND BELIEF.



COPIES 8-36-13  
RUSSELL A. JOHNSON, R.L.S.  
ARIZONA REG. NO. 22265

## NEW MIDDLE SCHOOL AT ELONA RANCH

HESS - ROUNTREE, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
2515 5TH STREET, SUITE C110  
PHOENIX, ARIZONA 85044 (480)488-0244  
H-R #1009-10

NORTH QUARTER CORNER, SECTION 23, TOWNSHIP 1 SOUTH, RANGE 8 EAST, G.A.S.R.M. FOUND TOWN OF GILBERT BRASS CAP, FLUSH WITH PAVED C/L.

COOLEY STATION NORTH, PARCEL 1, BOOK 765 OF MAPS PAGE 22, M.C.R.

COOLEY STATION NORTH, PARCEL 1, BOOK 765 OF MAPS PAGE 22, M.C.R.

UNRECORDED 304-25-0028 M.C.A. THE CORPORATION OF THE PREVIOUS ESTATE OF JESSE GARDNER TESTO CREDIT OF LATTER-DAY SAINTS DOC. 04-0400653 M.C.R.

NORTHEAST CORNER, SECTION 23, TOWNSHIP 1 SOUTH, RANGE 8 EAST, G.A.S.R.M. FOUND TOWN OF GILBERT BRASS CAP IN HANDHOLE, 0.5' BELOW RM. - POINT OF COMMENCEMENT.

- LEGEND:**
- FOUND BRASS CAP IN HANDHOLE
  - FOUND BRASS CAP FLUSH
  - SET 1" X 16" PEG WITH PLASTIC CAP STAMPED RLS 22285 ATTACHED THERE TO
  - FOUND OTHER MONUMENTS
  - △ CALCULATED POINT
  - M.C.R. MARICOPA COUNTY RECORDS
  - M.C.A. MARICOPA COUNTY ASSESSOR, PARCEL NUMBER
  - R/W RIGHT-OF-WAY
  - P.U.E. PUBLIC UTILITY EASEMENT
  - P.A.E. PEDESTRIAN ACCESS EASEMENT
  - G.A.S.R.M. GILA AND SALT RIVER MERIDIAN

Curve Table			
Curve #	Length	Radius	Delta
C1	57.33	36.50	080°00'00"
C2	160.50	725.00	012°41'02"
C3	138.36	625.00	012°41'02"
C4	26.50	53.00	030°48'38"
C5	21.42	30.00	080°00'00"
C6	156.73	708.00	012°41'02"
C7	142.12	642.00	012°41'02"
C8	23.52	15.00	089°30'15"
C9	31.42	20.00	080°00'00"
C10	18.00	11.50	080°00'00"
C11	96.43	708.00	008°56'28"
C12	154.85	699.50	012°41'02"
C13	135.50	630.50	011°56'07"
C14	12.00	708.00	000°56'18"
C15	58.31	708.00	004°34'57"
C17	54.76	53.00	039°11'32"
C19	23.52	15.00	089°30'15"

Line Table		
Line #	Length	Direction
L1	43.77	S00°35'17"E
L2	65.00	N89°24'47"E
L3	12.60	S00°35'17"E
L4	30.50	S89°34'32"W
L5	6.50	N31°13'36"W
L6	24.12	N44°58'43"E
L7	32.51	N89°24'32"E
L8	24.04	S45°25'28"E
L9	46.50	N89°24'32"E
L10	12.00	N00°25'28"W
L11	25.72	N89°24'32"E
L12	38.00	N00°25'28"W
L13	23.81	N44°43'38"W
L14	12.00	N00°25'28"W
L15	141.12	N89°24'32"E
L16	6.30	S01°41'00"E
L17	28.00	N89°24'32"E
L18	8.74	N02°20'28"E
L19	142.53	N89°24'32"E
L20	14.00	N89°24'32"E

# **RIGHT-OF-WAY AND EASEMENT NOTES**

1. RIGHT-OF-WAY PER MAP OF DEDICATION OF COOLEY STATION NORTH, RECORDED IN BOOK 747 OF MAPS, PAGE 46, RECORDS OF MARICOPA COUNTY, ARIZONA.
2. EASEMENT PER MAP OF DEDICATION OF COOLEY STATION NORTH, RECORDED IN BOOK 747 OF MAPS, PAGE 45, RECORDS OF MARICOPA COUNTY, ARIZONA.

Water Easement Curve Table			
Curve #	Length	Radius	Delta
C15	12.50	988.00	000°58'18"

14.50' ELECTRIC EASEMENT PER DOC NO. 2005-1072133 M.C.R.

Water Easement Line Table			Water Easement Line Table			Water Easement Line Table			Water Easement Line Table			Water Easement Line Table		
Line #	Length	Direction	Line #	Length	Direction	Line #	Length	Direction	Line #	Length	Direction	Line #	Length	Direction
L1	34.48	S07°03'20"W	L15	106.21	S43°00'10"W	L29	28.57	S89°58'30"E	L43	61.62	S46°00'10"W	L57	4.43	N89°58'40"E
L2	11.80	N80°00'00"W	L16	50.27	S00°00'10"W	L30	28.40	N00°00'20"W	L44	60.21	S00°00'10"W	L58	228.79	N00°00'20"W
L3	25.35	S00°00'00"E	L17	61.74	S44°58'30"E	L31	58.73	N44°58'40"E	L45	91.89	S44°58'30"E	L59	63.08	N44°58'40"E
L4	12.00	N80°00'00"W	L18	56.61	S89°58'30"E	L32	15.89	N89°34'30"E	L46	220.74	S89°58'30"E	L60	1.39	N00°25'28"W
L5	25.35	N00°00'00"E	L19	13.00	S00°00'00"E	L33	33.85	S07°03'20"W	L47	157.38	N45°00'00"E			
L6	65.50	N80°00'00"W	L20	12.00	S90°00'00"W	L34	63.84	N80°00'00"W	L48	6.83	N45°00'00"W			
L7	42.87	S43°00'10"W	L21	13.00	S00°00'00"E	L35	42.87	S45°00'10"W	L49	12.00	N46°00'00"E			
L8	130.03	N89°58'30"W	L22	120.18	S89°58'30"E	L36	143.62	N89°58'30"W	L50	8.63	N45°00'00"E			
L9	10.16	N00°00'00"E	L23	187.36	N43°00'00"E	L37	44.57	S45°00'10"W	L51	16.03	N45°00'00"E			
L10	12.00	N80°00'00"E	L24	230.05	N80°00'00"E	L38	228.33	S00°00'10"W	L52	230.05	N80°00'00"E			
L11	10.16	N00°00'00"E	L25	48.89	N44°58'30"E	L39	12.00	N40°00'00"E	L53	58.83	N44°58'30"E			
L12	1.58	N89°58'30"W	L26	21.487	N00°00'20"W	L40	7.76	S45°00'10"W	L54	14.82	N00°00'20"W			
L13	34.83	S45°00'10"W	L27	26.57	S89°58'30"E	L41	12.83	S45°00'10"W	L55	4.43	N89°58'40"E			
L14	278.33	S00°00'10"W	L28	12.00	N00°01'30"E	L42	7.76	S45°00'00"E	L56	12.00	S00°00'20"E			

SCALE: 1"=60'

FOUND ADOT ALUMINUM CAP, FLUSH, STAMPED 2507 C582 2910+24.34 L328728

30' CONSTRUCTION, LANDSCAPE & PATHWAY EASEMENT, DOC. NO. 2004-1030037 M.C.R.

FOUND ADOT ALUMINUM CAP, FLUSH, STAMPED 2507 C582 2925+23.10 L328728

FOUND ADOT ALUMINUM CAP, FLUSH, STAMPED 2507 C582 2925+23.10 L328728

EAST QUARTER CORNER, SECTION 23, TOWNSHIP 1 SOUTH, RANGE 8 EAST, G.A.S.R.M. FOUND TOWN OF GILBERT BRASS CAP, STAMPED 2007, FLUSH WITH PAVED C/L.

NEW MIDDLE SCHOOL AT ELONA RANCH  
HESS - ROUNTREE, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
8681 SOUTH GLEN STREET, SUITE C10  
PHOENIX, ARIZONA 85044 (480)466-0844  
H-R #1009-10

EXHIBIT B  
INSURANCE REQUIREMENTS

1. General. HUSD and its construction contractor ("HUSD/Contractor") shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to Gilbert. Failure to maintain insurance as specified may result in termination of this Agreement at Gilbert's option.
2. No Representation of Coverage Adequacy. By requiring insurance herein, Gilbert does not represent that coverage and limits will be adequate to protect HUSD/Contractor. Gilbert reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve HUSD/Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.
3. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.
4. Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by Gilbert, unless specified otherwise in this Agreement.
5. Primary Insurance. HUSD/Contractor's insurance shall be primary insurance as respects performance of subject contract and in the protection of Gilbert as an Additional Insured.
6. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.
7. Waiver. All policies, including Workers' Compensation Insurance, shall contain a waiver of rights of recovery (subrogation) against Gilbert, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of HUSD/Contractor. HUSD/Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

8. Policy Deductibles and or Self Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to Gilbert. HUSD/Contractor shall be solely responsible for any such deductible or self-insured retention amount. Gilbert, at its option, may require HUSD/Contractor to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

9. Use of Subcontractor/Contractors. If any services under this Agreement are subcontracted in any way, HUSD/Contractor shall execute written agreement with SubHUSD/Contractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting Gilbert and HUSD/Contractor. HUSD/Contractor shall be responsible for executing the agreement with SubHUSD/Contractor and obtaining Certificates of Insurance verifying the insurance requirements.

10. Evidence of Insurance. Prior to commencing any Services under this Agreement, HUSD/Contractor shall furnish Gilbert with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by HUSD/Contractor's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions, and limits of coverage specified in this Agreement, and that such coverage and provisions are in full force and effect. Acceptance and reliance by Gilbert on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to Gilbert Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be HUSD/Contractor's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

10.1 Gilbert, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

- a. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent.
- b. Auto Liability-Under ISO Form CA 20 48 or equivalent.
- c. Excess Liability-Follow Form to underlying insurance.

10.2 HUSD/Contractor's insurance shall be primary insurance as respects performance of this Agreement.

10.3 All policies, including Workers' Compensation, waive rights of recovery (subrogation) against Gilbert, its agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by HUSD/Contractor under this Agreement.

10.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11. Required Coverage:

11.1 Commercial General Liability: HUSD/Contractor shall maintain "occurrence" from Commercial Liability Insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent HUSD/Contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including, but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you". If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

11.2 Vehicle Liability: HUSD/Contractor shall maintain Business Automobile Liability Insurance with a limit of \$1,000,000 each occurrence on HUSD/Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the HUSD/Contractor's Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc., coverage code "1" any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

11.3 Workers' Compensation Insurance: HUSD/Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of HUSD/Contractor's employees engaged in the performance Services under this Agreement, and shall also maintain Employer Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.